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3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 TRANSPERFECT GLOBAL, INC., et al.,

8 Plaintiffs,

9 v.

10 MOTIONPOINT CORP.,

11 Defendant.
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Case No.: C-10-02590 CW (JCS)

**ORDER GRANTING IN PART AND
DENYING IN PART
MOTIONPOINT'S MOTION TO
STRIKE; DENYING
TRANSPERFECT'S MOTION TO
STRIKE
[DOCKET NO. 235]**

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15 Defendant MotionPoint Corporation ("MotionPoint") moved to strike portions of Dr. Paul
16 Clark's expert report on the purported invalidity of the asserted patents. Plaintiffs TransPerfect
17 Global, Inc., TransPerfect Translations, International, Inc., and Translations.com, Inc.,
18 ("TransPerfect") moved to strike MotionPoint's addition of three witnesses to its Initial Disclosures.
19 The parties appeared and argued their motions at a hearing held on December 7, 2012 at 9:30 am.
20 Good cause appearing and for the reasons stated on the record at the hearing, it is hereby Ordered as
21 follows:

22 MotionPoint's motion to strike Dr. Clark's references to (1) "WizTom Software build
23 3.20.1246 ('WizTom Software')," (2) "WizArt WizTom 3.0 Documentation ('WizTom User
24 Guide')," (3) "WizTom Internet Archive documentation ('WizTom IA')," (4) "WizTom for the Web
25 Version 3 Installation Guide ('WizTom Install')," and (5) "WizTom Power Builder" is DENIED.
26 TransPerfect adequately disclosed the WizTom system in their Invalidaty Contentions. These
27 particular supporting documents were only discovered, and the WizTom Software operated
28 successfully, by TransPerfect shortly before they disclosed them in their June 11, 2012 expert report
on invalidity. TransPerfect was diligent in locating these documents and promptly provided all of the

documents to MotionPoint. Given the extensive disclosure of the WizTom System, MotionPoint will not be prejudiced by the use of these supporting documents.

MotionPoint's motion to strike Dr. Clark's references to "WebBudget Demonstration Software: WebBudget 3 (3.0.1.1) ('WB Demo') is DENIED. TransPerfect discovered and operated the WB Demo shortly before they disclosed it in their June 11, 2012 expert report on invalidity. TransPerfect was diligent and there is good cause to allow them to use the cited document. MotionPoint has not shown prejudice from this additional reference.

MotionPoint's motion to strike Dr. Clark's references to "Idiom WorldServer in 20 Questions" ("20 Questions") is GRANTED. The document was not adequately disclosed in TransPerfect's invalidity contentions and TransPerfect was not diligent in their discovery and addition of this reference.

MotionPoint stipulated at the hearing that it is withdrawing its motion to strike Dr. Clark's references to "TheOne Frequently Asked Questions" and "Live from Japan – an e-commerce site gets a make-over from Asia."

TransPerfect stipulated at the hearing that it was withdrawing its references to (1) "U.S. Patent No. 6,122,666 ('Beurket')," (2) "PCT Publ. No. WO 00/05660 ('Pringle')," and (3) "U.S. Patent No. 6,662,233 ('Skarpness')." Accordingly, these three references are stricken from Dr. Clark's report

TransPerfect's motion to strike MotionPoint's addition of Jacob B. Morris, Matthew J. Kimball, and Jeffrey D. Weness to its Initial Disclosures is DENIED. TransPerfect may depose these witnesses and subpoena documents from the witnesses and from their previous employers. Those subpoenas shall issue and the depositions shall occur forthwith.

IT IS SO ORDERED.

Dated: December 12, 2012



JOSEPH C. SPERO
United States Magistrate Judge